

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leilani Rhodes	Team: APU	CCRB Case #: 201807213	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/28/2018 7:22 AM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 20	18 Mo. SOL 2/28/2020	EO SOL 2/28/2020	
Date/Time CV Reported Thu, 08/30/2018 10:43 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 08/30/2018 10:43 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Thomas Napolitano	3282	940682	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Paul Viar	2928	923317	WARRSEC
2. SGT Eric Samuels	01464	923106	WARRSEC
3. DT3 Frank Ingenito	2927	950618	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Thomas Napolitano	Abuse: Detective Thomas Napolitano damaged § 87(2)(b) property.	§ 87(2)(b)
B.DT3 Thomas Napolitano	Abuse: Detective Thomas Napolitano searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.DT3 Thomas Napolitano	Abuse: Detective Thomas Napolitano refused to show the arrest warrant to § 87(2)(b)	§ 87(2)(b)
D.DT3 Thomas Napolitano	Abuse: Detective Thomas Napolitano entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
E.DT3 Thomas Napolitano	Abuse: Detective Thomas Napolitano threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint on August 30, 2018 via the CCRB website.

On August 28, 2018, at approximately 7:22 a.m., § 87(2)(b) was sleeping in her home, located at § 87(2)(b) § 87(2)(b) in Manhattan when her neighbors texted her to let her know that police officers were banging on her front door. When § 87(2)(b) approached the front door, she noticed that her peephole was missing and the officers were shining flashlights in (Allegations A: Abuse of Authority - § 87(2)(g) and Allegation B: Abuse of § 87(2)(g) § 87(2)(b) Detective Thomas Napolitano from Brooklyn Warrants asked through the closed door whether § 87(2)(b) son, § 87(2)(b) was in the apartment. § 87(2)(b) opened her door, and asked to see the warrant before the officers entered (Allegation C: Abuse of Authority - § 87(2)(g) Detective Napolitano told her that he would show it to her, and he entered and searched § 87(2)(b) apartment (Allegation D: Abuse of Authority – § 87(2)(g) within allegation B). During the apprehension of § 87(2)(b) Det. Napolitano allegedly stated, “Let’s get the mother, let’s lock her up” and “I should arrest you for harboring a fugitive” (Allegation E: Abuse of Authority - § 87(2)(g) § 87(2)(b) was arrested for a parole violation. Video footage was not obtained for this incident.

Findings and Recommendations

Allegation A - Abuse of Authority - Detective Thomas Napolitano damaged § 87(2)(b) property.

Allegation B – Abuse of Authority: Detective Thomas Napolitano searched § 87(2)(b) § 87(2)(b) in Manhattan.

Allegation D - Abuse of Authority: Detective Thomas Napolitano entered § 87(2)(b) § 87(2)(b) in Manhattan.

It is undisputed that Det. Napolitano entered and searched § 87(2)(b) in Manhattan without a search warrant to look for § 87(2)(b)

§ 87(2)(b) stated that her son, § 87(2)(b) came to her apartment on the morning of the incident to visit her. She stated that he does not live with her, and that he lives in a shelter. § 87(2)(b) stated that she was asleep in her home when her neighbor texted her to inform her that officers were at her front door. She got out of the bed and went to the bathroom and heard officers saying that they were going to tear the door down. She stated that they banged on the door for 22 minutes before she went to open the door, at which point she noticed the peephole was missing and a flashlight was shining through the hole. Det. Napolitano stated through the door that he needed to know if § 87(2)(b) was in the apartment. When she opened the door, Det. Napolitano planted his foot in the crack of the door while another officer held the door open with his hand. § 87(2)(b) told Det. Napolitano that she wanted to see their IDs and the warrant before they entered. Det. Napolitano responded that they would give it to her. She asked them to give her a second, and then they entered the apartment. After they entered, the officers searched through her apartment and found § 87(2)(b) under her bed (Board Review 01).

Det. Napolitano testified that prior to going to § 87(2)(b) apartment; he performed various computer searches to obtain information about § 87(2)(b) He confirmed that there was an active parole warrant #§ 87(2)(b) He utilized a system called TLO which shows subjects’ addresses and where they receive mail, and § 87(2)(b) address was the top address listed for

§ 87(2)(b) He also searched another database called E-Justice for § 87(2)(b) which also listed § 87(2)(b) address as § 87(2)(b) address. The DAS LITE system made Det. Napolitano aware that § 87(2)(b) used § 87(2)(b) address for his emergency contact information, and frequently lists § 87(2)(b) as an emergency contact when he gets arrested. He also stated that § 87(2)(b) address was on the parole warrant. Det. Napolitano further stated that on the date of incident, he showed a female neighbor a picture of § 87(2)(b) and she pointed to § 87(2)(b) front door and “nodded her head yes” as if to indicate that § 87(2)(b) was home (Board Review 02).

The warrant profile for parole warrant #§ 87(2)(b) notes a different address as § 87(2)(b) address and shows that the searches conducted by Det. Napolitano occurred in March and April 2018 which was three to four months prior to the incident. The warrant profile also lists § 87(2)(b) arrest history, which dates back to 2003, and lists his last known residences, none of which list § 87(2)(b) address (Board Review 03).

The searches conducted by Det. Napolitano only prove that § 87(2)(b) is somehow connected to § 87(2)(b) and her address but not that he resides there. In addition, documentation shows that this information was outdated. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) t.

Det. Napolitano stated that he was knocking for five to ten minutes before § 87(2)(b) opened the door. He stated that he knocked on the door with his hand, did not use a flashlight, and did not observe any damage to her door. Det. Napolitano denied removing the peephole. Det. Napolitano further stated that he spoke to § 87(2)(b) through the door, stating that he was from the NYPD, and ordered her to open the door, stating that he had a warrant. § 87(2)(b) responded by telling the officers that they were not coming in, and that § 87(2)(b) was not there. The conversation lasted for about a minute before she opened the door. After she opened the door, she stated again that § 87(2)(b) was not there. Det. Napolitano told § 87(2)(b) that they had to make sure that he was not there, and she did not say anything in response. He stated that § 87(2)(b) stepped to the side. He interpreted that to mean he could come in to check for § 87(2)(b). He stated that she never tried to close the door on him and he never had to put his foot in the door (Board Review 02).

§ 87(2)(b) neighbor, provided a phone statement to the CCRB in which she stated that was asleep in her apartment when officers banged on her window in order to get into the building. She then went downstairs and allowed officers entry into the building. The officers asked her if she had seen § 87(2)(b) and she responded by saying that she knew who he was talking about but had not seen § 87(2)(b) in months. She then went back into her apartment to lay back down. § 87(2)(b) heard the officers kicking § 87(2)(b) door and decided to look out of her peephole. As she looked out of her peephole, she saw an officer drill § 87(2)(b) peephole and remove it from her door. She heard officers say that they knew someone was home and that they needed to be let into the apartment (Board Review 04). In her sworn statement to the CCRB, § 87(2)(b) stated that she did not see how the officers gained entry into § 87(2)(b) apartment and that she did not see them search the apartment (Board Review 05).

The investigation obtained a New York City Housing Authority work order that had been prepared the day of the incident. The report noted that on August 28, 2018, at 1:12 p.m., § 87(2)(b) reported that officers kicked her door in and broke her peephole and that it needed to be replaced. The work order noted that the next morning the hinges, peephole, and the strike plate were repaired (Board Review 06). § 87(2)(b) provided photos of a hole in her apartment door where the peep hole used to be and the broken peephole on the floor. She stated that these photos were taken on the day of the incident (Board Review 07).

§ 87(2)(b), § 87(2)(g)

According to People v. Paige, 77 A.D.3d 1193 (2010), a parole warrant carries with it the limited authority to enter a dwelling in which the suspect lives and where the officers reasonably believe the suspect is within (Board Review 08). The voluntariness of consent must be evaluated under the “totality of the circumstances.” Consent should be an unconstrained choice rather than a submission to authority. People v. Farquharson, 901 N.Y.S.2d 901 (2009) (Board Review 09).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation C- Abuse of Authority: Detective Thomas Napolitano refused to show the arrest warrant to § 87(2)(b)

It is undisputed that the officers only had a parole warrant for § 87(2)(b) and not a search warrant for § 87(2)(b) apartment.

§ 87(2)(b) stated that she asked Detective Napolitano to see the warrant before he entered her apartment and he responded, “We’re gonna give it to you.” § 87(2)(b) stated that Det. Napolitano did not show her the warrant when she asked to see it, and that she continued to ask to see the warrant as officers were escorting § 87(2)(b) out of the apartment. § 87(2)(b)

stated that she was never shown the warrant, and that Det. Napolitano stated, “We don’t have to show you anything” (Board Review 01).

Det. Napolitano testified that § 87(2)(b) did not ask to see the warrant before he entered her apartment, and that she asked to see the warrant after § 87(2)(b) was apprehended. He showed her the print out of the warrant that was available in his computer system. He stated that he did not have to because she was not the subject of the warrant, but he did anyway out of respect for her home (Board Review 02).

Det. Viar stated that he did not remember § 87(2)(b) requesting any information of the officers prior to the entry. He stated that he was not sure if she requested to see a warrant or any other information from the officers before they entered her apartment (Board Review 10).

Upon request of the defendant, the officer must show him the arrest warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the defendant upon request as soon after the arrest as possible. N.Y.S Criminal Procedure Law, Section 120.80 (Board Review 11)

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED].

Allegation E- Abuse of Authority: Detective Thomas Napolitano threatened to arrest

§ 87(2)(b)

It is undisputed that Det. Napolitano had a conversation with § 87(2)(b) regarding being arrested.

§ 87(2)(b) stated that while apprehending § 87(2)(b) Det. Napolitano stated, “Let’s get the mother, let’s lock her up” and, “I should lock you up too for harboring a fugitive” (Board Review 01).

Det. Napolitano testified that he told § 87(2)(b) “You can be arrested for obstructing governmental administration if you don’t open your door.” He stated that he never said, “Let’s get the mother, let’s lock her up” or “I should lock you up too for harboring a fugitive” (Board Review 02)

Det. Viar stated that he did not hear any officer say, “Let’s get the mother, let’s lock her up” or any other statements regarding arresting § 87(2)(b) Det. Viar also stated that he did not hear any officer say, “I should arrest you anyway for harboring a fugitive.” He stated that § 87(2)(b) could have been arrested for that reason and for obstruction (Board Review 10).

According to Penal Law 195.05, “A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or function, by means of intimidation, physical force or interference, or by means of any independently unlawful act...etc.” (Board Review 12).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories.

- § 87(2)(b)
- Det. Napolitano has been a member of service for thirteen years and has been a subject in 15 CCRB complaints and 33 allegations, of which four were substantiated:
 - 201010420 involved a substantiated allegation of force against Det. Napolitano. The Board recommended Charges and the NYPD found him not guilty.
 - 201609591 involved a substantiated allegation of an entry against Det. Napolitano. The Board recommended Command Level Instructions and the NYPD imposed Formalized Training.
 - 201701615 involved substantiated allegations of gun pointed, entry and search against Det. Napolitano. The Board did not recommend any disciplinary action.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b)
- As of March 29, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 16).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date